

1 Steven L Klinger Jr. & Sheila J Klinger  
2 8503 163rd St Court East  
3 Puyallup WA 98375

4 UNITED STATES DISTRICT COURT  
5 WESTERN DISTRICT OF WASHINGTON  
6

Steven L Klinger Jr. & Sheila J Klinger

Case # C10 5546 RJB

Plaintiff,

vs.

Wells Fargo

**PETITION FOR NO ANSWER  
DEFAULT**

Defendant

Date: September 17<sup>th</sup>, 2010

7

8

**PARTIES**

9

PLAINTIFF'S REQUEST FOR ENTRY OF DEFAULT

10 Plaintiff asks the court clerk to enter a default against Defendant, as authorized by Federal  
11 Rule of Civil Procedure 55.

12

A. Introduction

13 1. Plaintiff is: Steven L Klinger, Jr. & Sheila J Klinger , 8503 163rd St Court East  
14 Puyallup WA 98375, and Defendant is: Wells Fargo.

15 2. On 08/05/2010 Plaintiff sued Defendant for breach of fiduciary duty, fraud, fraud by  
16 nondisclosure, and violations of various consumer protection laws.

17 3. On 08/05/2010, Plaintiff filed with the court an ORIGINAL COMPLAINT. On  
18 08/05/2010 Defendant was served with a summons and a copy of Plaintiff's complaint through  
19 U.S. Mail. A copy of the return of service is attached as Exhibit A. Defendant did not file a  
20 responsive pleading or otherwise defend the suit.

21 4. Plaintiff is entitled to entry of default.

## B. Argument

2       5. The court clerk may enter a default against a party who has not filed a responsive  
3 pleading or otherwise defended the suit. Fed. R. Civ. P. 55(a); *see United States v. \$23,000 in*  
4 *U.S. Currency*, 356 F.3d 157, 163 (1st Cir. 2004); *N.Y. Life Ins. Co. v. Brown*, 84 F.3d 137, 141  
5 (5th Cir. 1996); *United States v. 51 Pieces of Real Prop. Roswell, N.M.*, 17 F.3d 1306, 1314  
6 (10th Cir. 1994).

7       6. The clerk should enter a default against Defendant because Defendant did not file an  
8 answer within 20 days after 08/09/2010, the date of service. Fed. R. Civ. P. 12(a)(1)(A)(i).

9       7. Plaintiff meets the procedural requirements for obtaining an entry of default from the  
10 clerk as demonstrated by Carey R. White's sworn affidavit, attached as Exhibit A. Said affidavit  
11 establishes by sworn testimony of Plaintiff that Defendant failed to answer or otherwise defend  
12 the instant action within the 20 day time period allowed by law.

13 8. Defendant is not a minor or an incompetent person. *See Fed. R. Civ. P. 55(b)(1).*

<sup>14</sup> 9. Defendant is not in military service. *See* 50 U.S.C. app. §521(b)(2).

15       10. Because Defendant did not file a responsive pleading or otherwise defend the suit,  
16 Defendant is not entitled to notice of entry of default. *Haw. Carpenters' Trust Funds v. Stone*,  
17 794 F.2d 508, 512 (9th Cir. 1986); see Fed. R. Civ. P. 55(a).

### C. Conclusion

19       11. Plaintiff filed a suit against Defendant in the court on the 5th day of August, 2010.  
20      Defendant failed to timely answer or otherwise defend said action and, thereby, Plaintiff is  
21      entitled to judgment against Defendant is all things requested by Plaintiff in the suit. For these  
22      reasons, Plaintiff asks the clerk to enter a default in favor of Plaintiff.

23      Respectfully Submitted,

24  
25 Steven L Klinger Jr.  
26

Sheila J Klinger  
Sheila J Klinger

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**VERIFICATION**

4 We, Steven L. Klinger Jr. & Sheila J Klinger , do swear and affirm that all statements made  
5 herein are true and accurate, in all respects, to the best of my knowledge.

6 Steven L. Klinger Jr. & Sheila J Klinger  
7 8503 163rd St Court East  
8 Puyallup WA 98375  
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10 SWORN TO AND SUBSCRIBED BEFORE ME, Michele A. Cook, by Steven L. Klinger  
11 Jr. & Sheila J Klinger on the 17<sup>th</sup> day of September, 2010, which witnesses my hand and  
12 seal of office.

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Michele A. Cook

**NOTARY PUBLIC IN AND FOR  
THE STATE OF WASHINGTON**

michele A. Cook  
1-29-14

